

**City of Chelsea  
LICENSING COMMISSION  
City Hall, 500 Broadway  
Chelsea, Massachusetts 02150  
(617) 466-4160 (telephone)  
(617) 466-4165 (fax)**

# **LICENSING COMMISSION RULES AND REGULATIONS**

Revised and Adopted  
April 11, 2000

## MESSAGE FROM THE CHELSEA LICENSING COMMISSION

The Licensing Commission of the City of Chelsea has prepared the following compendium of its general rules and regulations.

The Rules and Regulations are divided into eleven different sections and are indexed for easy reference. **A copy of the Rules and Regulations is to be kept at each licensed premises** and is to be available for perusal at all times. The Commission also requires that all employees of its licensees be familiar with the Rules and Regulations, as well as the obligations mandated by them.

In issuing these Rules and Regulations, the Commission is attempting to make these Rules and Regulations as accessible as possible and to aid in the general understanding of the Commission's role and function.

Any correspondence concerning these rules should be addressed to the Licensing Director at Chelsea City Hall, 500 Broadway, Chelsea, MA 02150, or by telephone at (617) 466-4160.

## INDEX

<u>Section 1</u>	ADMINISTRATIVE RULES AND PROCEDURES	1
1.01	Regular Meetings	1
1.02	Election of a Chair and Vice-Chair	1
1.03	Responsibilities of the Chair and Vice-Chair	1
1.04	Responsibilities of the Licensing Director	1
1.05	Sub-committee Appointments	2
1.06	Recognition of Speaker	2
1.07	Speaking Decorum	2
1.08	Speakers Called to Order	3
1.09	Voting on Questions	3
1.10	Roll Call Votes	3
1.11	Reconsideration	3
1.12	Parliamentary Practice	3
1.13	Order of Business - Agendas	3
1.14	Public Hearings	4
1.15	Rules of Procedure for Public Hearings	4
1.16	Restrictions upon Members	5
1.17	Motions Received by Chairman	6
1.18	Motions not Debatable	6
1.19	Special Meetings	6
1.20	Quorum	6
1.21	Incorporation	6
1.22	Adoption of Additional Rules of Procedures	6
<u>Section 2</u>	GENERAL RULES FOR ALCOHOLIC BEVERAGES LICENSEES, COMMON VICTUALLERS, INNHOLDERS AND OTHER LICENSEES OF THE COMMISSION	7
2.01	Definitions	7
2.02.	Availability of the Rules and Regulations	7
2.03.	Posting Signs	7
2.04.	Admissions to the Premises	8
2.05.	Hours of Operation	10
2.06.	Physical Layout of the Premises	11
2.07.	Business Arrangements of Licensees	11
2.08.	Alcoholic Beverage Sales	13
2.09.	Environs of Licensed Premises	17
2.10.	Inspections and Investigations	18
2.11.	Entertainment at Premises which Serve Food or Beverages to be Consumed on the Premises	18
2.12.	Standards of Conduct on Premises	20
2.13.	Illegal Activities on Licensed Premises	20
2.14.	Injuries to Persons at the Premises	21
2.15.	Other Causes for Revocation, Suspension, and Modification	21

2.16.	Service of Suspension Orders	22
2.17.	Permission to Close Premises Required	23
<u>Section 3</u>	SPECIAL ADDITIONAL RULES FOR COMMON VICTUALLERS	25
3.01.	Kitchen Facilities	25
3.02.	Alcoholic Beverages	25
3.03.	Food Service	25
3.04.	Applicable Rules	25
<u>Section 4</u>	SPECIAL ADDITIONAL RULES FOR INNHOLDERS	26
4.01.	Provisions for Strangers and Travelers	26
4.02.	Immorality on the Premises	26
4.03.	Maintaining a Register	26
4.04.	Applicable Rules	26
<u>Section 5</u>	SPECIAL ADDITIONAL RULES FOR LODGING HOUSE LICENSES	27
5.01.	Definition	27
5.02.	Cooking Facilities	27
5.03.	Immorality on the Premises	27
5.04.	Maintaining a Register	27
5.05.	Rooms to be Let to Persons Only	27
5.06.	Lodging House License Not to Coexist with Dormitory License	28
5.07.	Applicable Rules	28
<u>Section 6</u>	SPECIAL ADDITIONAL RULES FOR PACKAGE STORE LICENSEES	29
6.01.	Records of Deliveries	29
6.02.	Applicable Rules	29
6.03.	Off-Premises Sales	29
<u>Section 7</u>	SPECIAL ADDITIONAL RULES FOR BILLIARD TABLES, POOL TABLES, AND BOWLING ALLEYS	30
7.01.	Issuance of Licenses	30
7.02.	Penalties	30
7.03.	Minors	30
7.04.	Applicable Rules	30
<u>Section 8</u>	SPECIAL ADDITIONAL RULES FOR DISPENSING FOOD OR BEVERAGES AT CLUBS WHICH ARE NOT LICENSED FOR THE SALE OF ALCOHOLIC BEVERAGES	31

8.01.	Issuance of Licenses	31
8.02.	Exemptions	31
8.03.	Penalties	31
8.04.	Improper Use of License	31
8.05.	Conviction of Officer	31
8.06.	Applicable Rules	32
<u>Section 9</u>	SPECIAL ADDITIONAL RULES FOR AUTOMATIC AMUSEMENT DEVICES	33
9.01.	Issuance of Licenses	33
9.02.	Definition	33
9.03.	Penalties	33
9.04.	Applicable Rules	33
<u>Section 10</u>	SPECIAL ADDITIONAL RULES FOR THE SALE OF ALCOHOLIC BEVERAGES BY REGISTERED PHARMACISTS	34
10.01.	Issuance of License	34
10.02.	Sundays and Legal Holidays	34
10.03.	Certification of Purchaser	34
10.04.	Register to be Kept	34
10.05.	Applicable Rules	34
<u>Section 11</u>	SPECIAL ADDITIONAL RULES FOR PRIVATE CLUBS LICENSED TO SELL ALCOHOLIC BEVERAGES	35
11.01.	Definitions	35
11.02.	Inspections	35
11.03.	Lists of Members and Employees	35
11.04.	Entrance to Private Clubs	35
11.05.	Who May be Served	35
11.06.	Fees and Surcharges	35
11.07.	Applicable Rules	35

## **SECTION 1**

### **ADMINISTRATIVE RULES AND PROCEDURES**

#### **1.01. Regular Meetings**

The Licensing Commission shall conduct Regular Meetings at a time and date, as set forth under the Administrative Code of the City of Chelsea, or as determined by the call of the Chair in consultation with the full membership.

#### **1.02. Election of a Chair and a Vice-Chair**

The members of the Licensing Commission shall annually elect a Chair, and a Vice-Chair, who must be residents of the City of Chelsea. The election will be held during the month of March of each calendar year. The Chair and Vice-Chair shall serve at the will of the Licensing Commission and may be removed at any time by a majority vote of the Licensing Commission on the motion to vacate the seat in question. The City Manager and the City Clerk shall be notified of the officers of the Licensing Commission upon election.

#### **1.03. Responsibilities of the Chair & Vice-Chair**

The Chair shall serve as the presiding officer over all meetings of the Licensing Commission and is the official representative of the Licensing Commission in all proceedings before the City Council and other officials of the city. The Chair shall call all regular and special meetings to order at the fixed hours. The Chair shall preserve order and decorum at all times. The Chair shall decide all questions of order, subject to a motion to override the decision of the Chair from any of the members. Upon appeal of the Chair's decision, no other business is in order until the appeal has been voted upon.

Pursuant to Section 1.08. of the Administrative Code, the Chair of each multiple member body shall annually coordinate a meeting with the Chair of the respective City Council Sub-Committee to which the multiple member body has an interrelationship, for the purpose of defining an appropriate relationship during the ensuing fiscal year. The meeting should establish the following: frequency and method of communications, official(s) or employee(s) responsible for communications, and multiple member body and City Council Sub-Committee roles in the development of legislation.

Pursuant to Section 1.05. of the Administrative Code, in order to acquaint new members of the Licensing Commission with the affairs which will come before them, the Chair shall make available to each new member the minutes of the meetings of the previous two years and copies of any applicable laws, rules, or regulations governing the Licensing Commission.

In the absence of the Chair, the Vice-Chair shall perform all the functions of the Chair.

#### **1.04. Responsibilities of the Licensing Director**

The Licensing Director shall serve as secretary to the Licensing Commission and shall be responsible for the presentation of the minutes of each meeting of the Licensing Commission. The Licensing Director shall also record the roll of members present, all motions and questions under debate, and shall be responsible for the recording of all roll call votes when requested by a member on a particular motion. The Licensing Director shall also be the keeper of the records of the Licensing Commission, and shall keep a list of all matters laid on the table, those postponed to a certain day or those referred to a committee as part of the minutes.

The Chair, in the absence of the Licensing Director, shall ensure compliance with the procedures contained in the preceding paragraph.

Pursuant to Section 1.06. of the Administrative Code of the City of Chelsea, the Licensing Director is also responsible for the notification on file with the City Clerk, on or before the first of April of each year, of the regularly scheduled meetings of the Licensing Commission for the ensuing calendar year. The notification shall also include a location for each regular meeting. This shall not prevent the Licensing Commission from amending the schedule or calling special meetings in addition to those regularly scheduled, provided that, in all instances, standards of the Open Meeting Law are followed.

The Licensing Director shall be responsible for providing an accurate and true copy of the agenda of upcoming meetings to the secretary of the City Council and to the City Manager's Office, at the Director's earliest possible convenience.

#### **1.05. Sub-committee Appointments**

Any special, select, or standing sub-committees may be established by a majority vote of the membership of the Licensing Commission. A report of their activities shall regularly, or upon request of a majority of the membership, be made to the full membership. Each special, select or standing sub-committee so established shall observe laws relevant to the keeping of public records, the open meeting law, and any other applicable law, charter or administrative order. Each special, select or standing sub-committee shall elect a Chair from among the members of said committee.

#### **1.06. Recognition of Speaker**

When a member wishes to address the Licensing Commission, he/she will do so only when recognized by the Chair. The member shall be recognized by requesting recognition of the Chair. The member will then wait to be recognized before beginning any remarks.

#### **1.07. Speaking Decorum**

Members shall speak only on the question under debate, unless so allowed by the Chair. No member shall hold the floor for more than five minutes on any question under

debate. All questions from one member to another must be addressed through the Chair and answered only by permission of the Chair.

**1.08. Speakers Called to Order**

No member shall be interrupted while speaking, except by a call to order from the Chair. The Chair will signify this by a call to order or by use of a gavel. A member called to order must immediately cease debate unless permitted to explain. Should such member appeal the decision of the Chair, the appeal shall be decided by vote of the membership present without debate. If the decision of the Chair is upheld, the member shall not be allowed to speak.

**1.09. Voting on Questions**

Every member who is present when a question is put, shall vote either "yes" or "no" on said question, unless granted leave by the Chair. A member may be allowed to vote "present" if his/her own private interests are involved therein. A member must have permission of the Chair or a majority of the members present, or a determination by the City's Corporate Counsel that voting on a matter would result in a conflict of interest, in order to be allowed to vote "present."

**1.10. Roll Call Votes**

Any member may request a roll call vote on any question. Once a roll call is begun, no debate will be allowed. The Licensing Director will record and announce the results of all roll call votes when requested.

**1.11. Reconsideration**

A vote having been taken on all matters, a motion to reconsider any vote shall only be in order prior to adjournment of the meeting at which the particular vote in question was taken. A motion for reconsideration, to be filed with the Licensing Director and Chair of the Licensing Commission, shall state whether a vote on the motion for reconsideration shall be taken at that meeting or the next meeting convened by the Chair. Upon receipt of a motion to reconsider, all action on the matter shall be halted.

A motion to reconsider may only be made by a member who voted on the prevailing side of the question.

**1.12. Parliamentary Practice**

Robert's Rules of Order shall be the authority adopted by the Licensing Commission on all points of parliamentary practice.

**1.13. Order of Business - Agendas**

At every regular meeting of the Licensing Commission, the order of business shall be as follows:



- a) Calling the roll of members
- b) Approval of the minutes of the previous meeting
- c) New business
- d) Communications
- e) Conferences and Public Hearings
- f) Unfinished (old) business
- g) Adjournment

The above order may be departed from upon consent of the majority of the members of the Licensing Commission.

In addition, the Licensing Director shall be responsible for ensuring an agenda is prepared 48 hours prior to each meeting, which, in addition to a listing of the above-ordered business, shall list any public hearings that may be scheduled for that meeting, any unfinished business and/or items currently on the table, as well as any new matters to be discussed under New Business.

Copies of the agenda shall be filed in the Office of the City Clerk 48 hours prior to each scheduled meeting. Deadlines for placing items on the agenda shall be no later than forty-eight (48) prior to the time and date of scheduled meeting. Additional deadlines may be set by the Chair or a majority vote of the full membership.

#### **1.14. Public Hearings**

Unless otherwise required by law, notice of all Public Hearings of the Licensing Commission shall be posted on the bulletin board in City Hall and published in one newspaper at least ten (10) days in advance of the time and date of said hearing. When required by law, abutters and/or interested parties shall be notified by mail at their last known address as recorded by the City of Chelsea within the time frame set by such law.

#### **1.15. Rules of Procedure for Public Hearings**

Unless otherwise ordered by members of the Licensing Commission, the following rules of procedure shall be followed for all Public Hearings of the Licensing Commission:

- a) The Public Hearing shall be called to order by the Chair on the date and time specified.
- b) The Chair shall read the call of the meeting.
- c) The moving party, if any, shall be given adequate, yet reasonable time to the general time constraints of the public's time, to present such information, evidence, in either oral, graphic documentary form, or argument in favor of their stated position. For the purposes of a disciplinary hearing the police, inspector, or other city, state, or federal official shall be deemed the moving party. For the purposes of rule making, the Commission, or its

designee shall be deemed the moving party, and make a general presentation of the proposed rule or regulation.

- d) Any opposing party, if any, shall be given adequate, yet reasonable, time to the general time constraints of the public's time, to present such information, evidence, in either oral, graphic documentary form, or argument in favor of their stated position. For the purposes of a disciplinary hearing, the licensee shall be deemed the opposing party.
- e) The Chair shall then open the public portion of the hearing for the purpose of receiving public comment. At his/her discretion, the Chair may require those members of the public in favor of a particular matter in question or under debate to speak first, to be followed by those in opposition, or vice-versa. Every member of the public who speaks must state his/her name and address for the record before addressing the Licensing Commission. No member of the public may speak for more than five minutes, unless otherwise allowed to do so by a majority vote of the members present. All questions from the public shall be directed through the Chair of the Licensing Commission.
- f) A record of everyone who spoke, their name and address, and whether they were speaking in favor or opposition to a particular matter, shall be recorded by the Licensing Director.
- g) No member of the Licensing Commission shall be allowed to speak on the subject matter upon which a hearing is being held during the public comment portion of the Public Hearing.
- h) Once all members of the public have spoken, the Chair shall declare the public portion of the hearing closed, at which time the matter in question may be debated by the members of the Licensing Commission. Unless otherwise set forth by law, and if required, members shall be allowed to vote on the particular matter in question at any time following the closing of the public portion of the Public Hearing upon motion by any member present. By a majority vote of the members present, and where allowed by law, the Licensing Commission may postpone a vote on a particular matter until a later time or date. Once all interested members of the public have spoken, the public speaking portion of the Public Hearing shall be closed.
- i) Once all members have spoken, and any or all votes relating to the matter in question have been taken, the Chair shall declare the Public Hearing closed.

#### **1.16. Restrictions upon Members**

No member shall be allowed to vote on any question or serve on any committee when doing so would violate the State of Massachusetts Conflict of Interest Laws or the Code of Ethics of the City of Chelsea as contained in the 1994 Revised Ordinances. Members shall be authorized to request an opinion from the City's Corporate Counsel in order to make such a determination.

### **1.17. Motions Received by Chairman**

When a motion or question is under debate, the Chair shall only entertain motions:

- a) to adjourn
- b) to lay on the table
- c) to move the previous question
- d) to postpone to a day certain
- e) to amend
- f) to postpone indefinitely

These motions shall have precedence in the order in which they are arranged (e.g., the motion to adjourn (a) takes precedent over all motions (b-f) listed above.)

### **1.18. Motions not Debatable**

The motion to adjourn, the motion to lay on the table, or to take from the table, for the previous question, for the yeas and nays, and the motion to vacate the Chair shall be decided without debate.

### **1.19. Special Meetings**

Special Meetings of the Licensing Commission may be held on the call of the Chair, or on the call of a majority of the members of the Licensing Commission, by written notice delivered to the City Clerk at least forty-eight (48) hours in advance of the time and date of said special meeting. Said notice shall clearly state the purpose and agenda of said Special Meeting. The Chair shall be responsible for notifying all members of the Licensing Commission upon the call of a Special Meeting.

### **1.20. Quorum**

A majority of the Licensing Commission shall constitute a quorum, providing all standards of the Open Meeting Law are met.

### **1.21. Incorporation**

The Administrative Policies and Procedures of the City of Chelsea, set forth in Part IV of the Administrative Code, are hereby incorporated by reference.

### **1.22. Adoption of Additional Rules of Procedure**

The Licensing Commission, by majority vote of it's full membership, may, from time to time, amend any existing rule or adopt additional rules of procedure as may be necessary to maintain the efficient operation of the Licensing Commission.

## SECTION 2

### **GENERAL RULES FOR ALCOHOLIC BEVERAGES LICENSEES, COMMON VICTUALLERS, INNHOLDERS AND OTHER LICENSEES OF THE COMMISSION**

#### **2.01. Definitions**

Whenever the word "licensee" is used herein it shall mean an individual licensee and each member of a partnership licensee and each officer, director, manager, and stockholder of a corporate licensee and any agents of a licensee including those employees who work in the public areas of the premises.

#### **2.02. Availability of Rules and Regulations**

- a) All licensees of the Licensing Commission for the City of Chelsea shall ensure that a copy of the Rules and Regulations of the Commission is kept on the licensed premises at all times and is immediately available for inspection upon request by a member of the public or an agent of the Commission. These Rules and Regulations are to be kept at the front door area where patrons pay their entrance fees or their checks or at the main cash register; provided, however, that in establishments where patrons pay their checks at their tables, the Rules and Regulations shall be kept by the licensee in a location in the dining room of the licensed premises.
- b) The Rules and Regulations need not be posted but must be readily accessible to a requesting party forthwith upon request.
- c) The licensee is responsible for ensuring that all employees of the licensee read the Rules and Regulations of the Commission and comply therewith.

#### **2.03. Posting and Signs**

- a) Licenses issued by the Commission must be posted in a conspicuous place easily seen by the public where they can be read without difficulty and without recourse to the assistance of employees at the licensed premises.
- b) All other licenses, permits, and certificates affecting the licensed premises must be posted conspicuously; provided, however, that no such document shall be posted in such a way as to cover any part of the license issued by the Commission.
- c) No dress code or preferred customer program or cover charge or other admissions policy shall be put into effect at the premises except upon proper posting pursuant to section 2.04 ("Admissions"), below.

- d) The posting or presentation of any photographs, signs, posters, drawings, or other matter that is of an improper or objectionable nature in the public areas of the licensed premises is prohibited. The material presented must be suitable for view by members of the general public in the same manner as if it were located in other public areas such as public ways, public parks, common carrier stations, and other government and business offices.

#### **2.04. Admissions to the Premises**

- a) No licensee may permit any rule, policy, or action, express or implied, which makes any distinction, discrimination, or restriction on account of race, color, religious creed, national origin, sex, physical or mental disability, or ancestry, relative to the admission or treatment of persons from the general public or employees at the licensed premises; provided, however, that premises licensed pursuant to section 12 of the General Laws, Chapter 138, may make rules regulating the admission of minors to the premises when such rules are not inconsistent with other rules and regulations stated herein; provided further that private club licensees may not discriminate, as aforesaid, with regard to guests at the licensed premises or who may be invited to the premises as a guest.
- b) No licensee may institute dress requirements of any kind except according to the following rules:
  - (1) A sign must be posted at the entrance stating dress requirements or dress restrictions with specificity. (Examples: "Jackets required," "Ties and jackets required," "Shirts with collars required, no sneakers.")
  - (2) No signs may be posted which state "Proper dress required" or which otherwise announce a dress policy without stating specifically, item by item, what dress is required or what dress is prohibited.
  - (3) No requirement may be made as to the type of shoes or the height of heels which may be worn; provided, however, that reference may be made to the admissibility or the non-admissibility of sneakers or other soft athletic shoes or open shoes such as sandals.
- c) No licensee may issue special admissions passes or "V.I.P." cards except pursuant to the following rules:
  - (1) A licensee may issue special passes.
  - (2) The special pass must state the calendar year on the face of the pass.
  - (3) The special pass may not entitle the passholder to free drinks or to a discount on drinks.

- (4) The licensee must keep a list of the names and addresses of all the passholders and must make such list available if requested by the Commission.
  - (5) The licensee is responsible for ensuring that persons are picked to be passholders on a rational basis and not on any invidiously discriminatory or subjective basis.
- d) No licensee may require any person to pay a minimum charge or cover charge unless a sign is conspicuously posted at every entrance to any dining room or rooms where such charge is required, in letters no less than one inch in height, stating that a minimum charge or cover charge shall be charged and also stating the amount of charge; provided, however, that no such licensee shall require a person under thirteen years of age to pay a minimum charge or a cover charge. Such cover charge shall not be collected in advance of gaining entrance to the licensed premises, and can only be charged upon a written or printed receipt, permanently recorded and numbered seriatim, presented to each individual customer or group of customers. Records of such receipts shall be kept by the licensee for a period of not less than two years. Cover charge shall mean all admission fees or admission charges. Such charges must also be posted on the outside of the licensed premises. Nothing in this regulation shall be construed to prohibit advance ticket sales.
  - e) No minimum charge for the purpose of alcoholic beverages or minimum alcoholic beverage drinking requirement shall be imposed on any customer of a section 12 (General Laws, Chapter 138) licensee.
  - f) A licensee who charges a minimum charge for the purchase of food and/or non-alcoholic beverages shall include a specific statement in the posting (as per section 2.03d., above) stating that there is no minimum charge for alcoholic beverages. Such minimum charge for food and/or non-alcoholic beverages shall not be collected in advance of gaining entrance to the premises. No licensee shall impose a minimum charge for food and/or non-alcoholic beverages upon any customer who incurs charges for alcoholic beverages equal to or greater than the posted minimum charge for food and/or non-alcoholic beverages. (204 CMR 2.16).
  - g) Licensees may refuse entrance to the premises to a person who appears to be intoxicated or unruly; and may evict such a patron, except that in such a case the licensee should call the police and should offer assistance to an intoxicated person when possible.
  - h) Licensees shall not permit entrance to the premises by more persons than the number approved by the Department of Inspectional Services for the capacity of the premises minus the number of employees working in the public areas at that time; provided, however, that at premises where the Commission has approved a capacity which is less than the capacity figure approved by the Department of

Inspectional Services the licensee need not deduct the number of employees from the capacity figure set by the Commission.

- i) Licensees who permit persons to wait in line for a table or a seat or for entrance to the premises must obey the following rules:
  - (1) Persons who wait inside the premises must be kept in an orderly line and must not be permitted to block fire aisles or exits. The number of such persons waiting inside the premises may not exceed the number of persons allowed as standees.
  - (2) Persons who are permitted to wait in line outside the premises must be supervised by an employee of the licensed premises. Such an employee must stand outside with the line during all times when the line exceeds ten persons and shall announce no further admissions to the premises if persons in the line are being loud or disorderly or if the line is blocking the sidewalk or is of a size that could reasonably be expected to cause noise or other problems for residents of the area or for passersby. To the extent that lines in front of a licensed premises become the subject of public complaints, the licensee will be deemed to have been inviting a public nuisance and will be subject to disciplinary proceedings for same. It is recommended that licensees in residential areas discourage lines of more than ten persons.
- j) Licensees are not permitted to lock the front door of the premises until the last patron has exited from the premises.
- k) Licensees are not permitted to allow any patron or any guest or any employee who is not working that shift to enter the premises after the closing hours posted on the license or prior to the opening hour posted on the license.

## **2.05. Hours of Operation**

Licensees are not permitted to have persons, including employees, on the premises except during the following hours:

- a) The hours on the license, except that patrons who are already on the premises at closing hour may remain on the premises for up to one-half hour after closing time; provided, however, that no new patrons are admitted after closing time and that no drinks are served or consumed after closing time and that no food is served or consumed after closing time.
- b) The owner, manager, and employees may be on the premises after hours, but only if they are actively engaged in cleaning, making emergency repairs to, or providing security for such premises or preparing food for the day's business or opening or closing the business in an orderly manner.

No other persons, friends, or relatives may be on the premises during the hours when the public is excluded from the premises.

- c) Licensees shall ensure that their patrons leave the premises in an orderly manner. Licensees who have a clientele that regularly fails to leave the area in a quiet and orderly manner should hire security personnel to police the leave-taking of the patrons at closing time.

## **2.06. Physical Premises**

- a) No licenses shall issue or shall be considered in good standing unless licensed premises comply with all statutory requirements, including all applicable building codes, and fire, health, safety, trash, and other government regulations and laws.
- b) The licensed premises shall conform to the floor plan approved by the Commission with regard to the structures and the walls at the premises, as well as with regard to all tables, chairs, booths, bars, counters, barstools, dance floors or areas, railing partitions, and other barriers at the premises.

Any changes in the floor plan or any renovations of any kind may not be made without written notification and approval of the Commission. This includes substantial changes in the arrangement of moveable furniture.

- c) All premises covered by the license shall be kept in a clean and sanitary condition.
- d) No outside area may be used as a gathering place for patrons unless approved by the Commission.
- e) The premises shall be lighted in all public areas in a manner sufficient for the safety of the patrons and in a manner sufficient for the agents of the Commission to make observations at the premises without the need to identify themselves or the need to seek assistance.
- f) Licensees are not permitted to invite the members of the general public to private areas of the premises which are approved by the Commission for storage or for an office or for a kitchen or for a music or video projection room or for any similar non-public use. Only owners and employees of the licensed premises may be in these areas.

## **2.07. Business Arrangements of Licensees**

- a) No person or entity may obtain or renew a license unless the applicant for such license or for renewal of such license can demonstrate proof of a legal right to the licensed premises for the term of the license. Such proof shall include ownership papers or a tenancy document or a management contract; provided, however, that all parties to such ownership or leasehold interest or management contract must be made known to the Commission and the terms of such



agreements or contracts must be made known to the Commission. The Commission reserves the right to disapprove of such arrangements where it reasonably finds that such arrangements are not in the public interest.

- b) No licensee may hire any employee or contract for goods or services in any name other than that of the licensee, nor may the licensee pay for any such employment, goods, or services by any means other than its own cash or bank accounts in its own name. Cash transactions must be recorded in a manner suitable for review by the Commission. Such records must be kept for a period of three years.
- c) No licensee shall permit any person to have a direct or indirect financial or beneficial interest in the licensed business or to receive any revenue from the business or to manage the premises other than the persons properly approved of by the Commission and the salaried employees of the licensee.
- d) No licensee shall permit any person to work at the licensed premises or to hold themselves out as a person in a position of authority at the premises except for those persons who are owners and officers or who are salaried employees for whom payroll records are available. No licensee may pay an employee any percentage of the profits of the business or pay an employee in any manner other than by salary or hourly rate except upon approval of the Commission.
- e) No licensee may pay a landlord or creditor of any kind a percentage of the profits of the business except upon complete disclosure to the Commission and the receipt of the Commission's approval.
- f) No licensee shall lease or sublease to others any part of the licensed premises or any part of the business without the prior approval of the Commission. No licensee shall contract for the management of the food or beverage service without the approval of the Commission.
- g) No licensee shall enter into an agreement with an independent contractor to provide beverages or food or entertainment or management at the premises without the approval of the Commission.
- h) No licensee may pledge the stock or ownership interests in the licensed business or the license itself without the approval of the Commission.
- i) No licensee may take a loan secured by any equipment at the premises or secured by any direct or indirect interest in the licensed business without the approval of the Commission. This includes kitchen equipment, video or audio equipment, lighting equipment, furniture, or any other type of equipment.
- j) No licensee shall contract bills for its licensed premises under any corporation or trade name other than that under which it is licensed.

- k) The manager of the licensee must not be changed until the Commission and the Alcoholic Beverages Control Commission have approved such change. If the licensed manager ceases to serve as such for any reason, the licensee shall notify the Commission and the ABCC of the name of a temporary manager and the date (not to exceed two weeks) upon which the licensee intends to file an application for a change in the licensed manager.
- l) Any licensee intending to close its place of business for a short or long term must notify the Commission in writing before such closing and state the reason for such closing. (See also Rule 2.17, below, requiring Commission permission to close premises). Upon any such closing, the Commission may hold a public hearing to determine whether to amend the hours of operation of the licensed business.
- m) Assignment of the stock or ownership interests of corporate or partnership licensees for purpose of collateralizing loans or notes, etc., gives no right to the assignee to conduct the business of the licensee. Licensees must immediately notify the Commission when the assignee forecloses under such assignment of stock or when other proceedings are brought which might affect the economic and financial rights and liabilities of the licensee.
- n) Sections h. through m. above shall apply only to licensees who hold alcoholic beverage licenses.
- o) Alcoholic beverage licensees shall not use any trade name, assumed name, or abbreviated name in connection with the licensed business unless the same name appears on the license certificate issued by the Commission or unless written permission is first obtained from the Commission. The use of any unauthorized name on the books, records, stationery, or interior or exterior of the premises or for advertising purposes or telephone listing is prohibited unless permission is first obtained from the Commission.
- p) Licensees are responsible for maintaining a legal right to occupy the premises, which is covered by the license. Failure to have a legal right to occupy the named licensed premises will result in revocation or non-renewal of the license.
- q) No licensee under Chapter 138 of the General Laws may lend or borrow money, directly or indirectly, to or from any other licensee under Chapter 138.

## **2.08. Alcoholic Beverages Sales and Laws**

- a) No alcoholic beverages shall be sold for less than the actual cost of the beverage to the licensee. An admission charge shall not be credited towards the purchase price of any alcoholic beverage.
- b) All licensees shall maintain a schedule of the prices charged for all drinks to be served and drunk on the licensed premises or in any room or part thereof. Such prices shall be effective for not less than one calendar week.

- c) No licensee or employee or agent of the licensee shall:
- (1) Offer to deliver any free drinks to any person or group of persons;
  - (2) Deliver more than two drinks to one person at a time;
  - (3) Sell, offer to sell or deliver to any person or group of persons any drinks at a price less than the price regularly charged for such drinks during the same calendar week, except at private functions not open to the general public;
  - (4) Sell, offer to sell or deliver to any person an unlimited number of drinks during a set period of time for a fixed price, except at private functions not open to the public;
  - (5) Sell, offer to sell or deliver drinks to any person or group of persons on any one day at prices less than those charged the general public on that day, except at private functions not open to the public;
  - (6) Sell, offer to sell or deliver malt beverages or mixed drinks by the pitcher except to two or more persons at any one time;
  - (7) Increase the volume of alcoholic beverages contained in a drink without increasing proportionately the price regularly charged for such drink during the same calendar week;
  - (8) Encourage or permit, on the licensed premises, any game or contest which involves drinking or the awarding of drinks as prizes.
  - (9) No licensee shall advertise or promote in any way, whether within or without the licensed premises, any of the practices prohibited under these Rules and Regulations.
- d) Nothing contained in the preceding section shall be construed to prohibit licensees from offering free food or entertainment at any time; or to prohibit licensees from including a drink as part of a meal package; or to prohibit the sale or delivery of wine in a bottle or carafe when sold with meals or to more than one person; or to prohibit those licensed under Chapter 138, section 12, from offering room services to registered guests.
- e) Licensees shall not permit alcoholic beverages to be brought onto the licensed premises by patrons or employees.
- f) Licensees are responsible for ensuring that minors are not served alcoholic beverages and are not drinking alcoholic beverages on the licensed premises, whether served to them by an employee or handed to them by another patron. Licensees who do not have the ability to control the drinking activity of minors at

the premises shall exclude minors from coming onto the premises in order to meet the burden of ensuring that there is no underage drinking at the premises. Sufficient security personnel should be employed to monitor the premises to ensure that patrons do not pass alcoholic beverages to minors.

- g) Throughout these Rules and Regulations, references to sales of alcoholic beverages are for those premises which hold licenses to sell alcoholic beverages on the premises. However, prohibitions against minors drinking on the premises and against alcoholic beverages being brought onto the premises apply to all licenses of the Commission with regard to the public rooms of the premises.
- h) Any person holding an alcoholic beverages license under sections 12, 14, or 15 of General Laws Chapter 138, who, directly or through any agent, employee or other person, dilutes or changes or in any manner tampers with any alcoholic beverages authorized to be sold under such license so as to change its composition or alcoholic content shall be punished by a fine of not less than two hundred nor more than five hundred dollars, and if any holder of such license is convicted of a violation of the foregoing, his license shall forthwith be suspended for a period of not less than six months; provided, that cocktails and other mixed drinks may be prepared on premises so licensed for the sale of alcoholic beverages. (General Laws, Chapter 138, section 16)
- i) Whoever makes a sale or delivery of alcoholic beverages or alcohol to any person under twenty-one years of age, either for his own use or for the use of his parent or any other person, or whoever, being a patron of an establishment licensed under section 12 or 15 of General Laws Chapter 138, delivers or procures any such beverage or alcohol for a person under twenty-one years of age in any establishment licensed under section 12, or procures any such beverage or alcohol for a person under twenty-one years of age who is not a child, ward or spouse in any establishment that is a package store, shall be punished by a fine of not more than two thousand dollars or by imprisonment for not more than six months or both. (N.B. Alcoholic beverages may be procured for an underage child, ward or spouse in a package store by a parent, guardian or spouse but may not be so procured for such underage person in an on-premise drinking establishment). (General Laws, Chapter 138, section 34)
- j) Employees at premises which sell or serve alcoholic beverages for on-premises consumption or at package stores must be eighteen years of age, except that such licensee may employ a person under the age of eighteen who does not directly handle, sell, mix or serve alcohol or alcoholic beverages.
- k) Any person under twenty-one years of age who purchases alcoholic beverages or alcohol or makes arrangements with any person to purchase or in any way procure such beverages, or who willfully misrepresents his age, or in any way alters, defaces or otherwise falsifies his identification offered as proof of age with the intent of purchasing alcoholic beverages, either for his or her own use or for the use of any other person, shall be punished by a fine of three hundred dollars and whoever knowingly makes a false statement as to the age of a person in

order to procure a sale or delivery of such beverages or alcohol to such person under twenty-one years of age, either for use of the person under twenty-one years or for use of some other person, and whoever induces a person under twenty-one years to make a false statement as to his or her age in order to procure the sale or delivery of such beverages or alcohol to such person under twenty-one years of age shall be punished by a fine of three hundred dollars. (General Laws, Chapter 138, section 34A).

- l) Any licensee or agent or employee thereof under Chapter 138 who reasonably relies on a Massachusetts Liquor Purchase Identification Card or Massachusetts motor vehicle license for proof of a person's identity and age shall not suffer any disciplinary action or any criminal liability for delivering or selling alcohol or alcoholic beverages to a person under twenty-one years of age. Such licensee shall be presumed to have used due care in making the sale, but such presumption shall be rebuttable. The information on the card or license must clearly match the photograph and the description of the card or license holder and there should be no obvious signs of tampering upon reasonable inspection. (General Laws, Chapter 138, section 34B).
- m) Any person who transfers, alters or defaces any such card, or who makes, uses, carries or sells or distributes a false identification card or uses the identification card or motor vehicle license of another or furnishes false information in obtaining such card shall be guilty of a misdemeanor and shall be punished by a fine of not more than two hundred dollars or by imprisonment for not more than three months. (General Laws, Chapter 138, section 34B).
- n) Any person who is discovered by a police officer or special police officer in the act of violating the provisions of this section may be arrested without a warrant by such police officer or special police officer and held in custody, in jail or otherwise, until a complaint is made against him or her for such offense, which complaint shall be made as soon as practicable and in any case within twenty-four hours, Sundays and legal holidays excepted. (General Laws, Chapter 138, section 34B).
- o) Whoever, being under twenty-one years of age and unaccompanied by his parent or legal guardian, knowingly transports or carries on his person any alcohol or alcoholic beverages, shall be subject to disciplinary action by the Licensing Commission and shall be punished by a fine or by imprisonment as set by State statute; provided that this section shall not apply to any person who is between eighteen and twenty-one who is acting in the course of his or her employment. A police officer may arrest without a warrant any person who violates this section.
- p) Alcoholic beverage licensees are forbidden to make a sale or delivery of alcoholic beverages or alcohol to a person who is intoxicated.
- q) Any establishment licensed to sell alcoholic beverages to be drunk on the premises shall post a copy of the penalties for driving under the influence set

forth in section 24 of General Laws, Chapter 90. Establishments licensed to sell alcoholic beverages not to be drunk on the premises shall post a copy of the penalties for operating a motor vehicle while drinking from an open container (section 24I of Chapter 90). Said copies shall be posted conspicuously in said establishments. Said copies are available from the Alcoholic Beverages Control Commission. (Chapter 138, section 34D)

## **2.09. Environs of Licensed Premises**

- a) It shall be the obligation of licensees to ensure that a high degree of supervision is exercised over the conduct of the licensed establishment at all times. Each licensee will be held accountable for all violations that are related to the licensed premises to determine whether the licensee acted properly in the given circumstances.
- b) Licensees shall comply with all health and safety laws for the areas outside and contiguous to the licensed premises.
- c) Licensees shall act reasonably and diligently to disperse loiterers or patrons who attempt to congregate in front of or at the licensed premises. Failure of the licensee to keep persons from congregating at the licensed premises may lead to disciplinary action against the licensee for allowing a public nuisance. Reasonable steps to be taken by the licensee include: (1) maintaining the exterior doors of the licensed premises in a closed position; (2) asking loiterers to disperse; (3) calling the police, if loiterers refuse to disperse; (4) hiring a security guard or stationing a security employee at the front door to disperse loiterers; (5) refusing to allow the same patrons to walk in and out of the premises at short intervals; (6) maintaining order in lines of patrons waiting outside to get in; (7) announcing that no further patrons will be allowed into the premises if lines become too long, disorderly or too loud.
- d) Licensees shall take such steps as are necessary to ensure that patrons or employees do not leave the premises with alcoholic beverages. Such steps may include: (1) having an employee stationed at the door to watch patrons as they leave; (2) refusing to serve beer in bottles; (3) refusing to serve alcoholic beverages in disposable cups. When patrons are observed leaving the premises with beer bottles, beer cans, or cups or glasses filled with liquids that smell like alcoholic beverages to the Commission's agents, it shall be presumed that the vessels contain alcoholic beverages.
- e) When any noise, disturbance, misconduct, disorder, act or activity occurs in the licensed premises, or in the area in front of or adjacent to the licensed premises, or in any parking lot provided by the licensee for the use of its patrons, which in the judgment of the Commission adversely affects the protection, health, welfare, safety or repose of the residents of the area in which the licensed premises are located, or results in the licensed premises becoming the focal point for police attention, or is offensive to public decency, the licensee may be held in violation

of the license and subject to proceedings for suspension, revocation or modification of the license.

- f) Licensees who use a valet parking service shall be responsible for ensuring that valet parking is conducted in an orderly manner without undue noise, without undue blocking of the traffic lanes, and without the violation of any laws or authorized parking programs.
- g) Licensees who have agreed to a parking program as a condition of their license must adhere to such program except upon exemption by the Commission.

#### **2.10. Inspections and Investigations**

- a) All licensed premises shall be subject to inspection by the Police Department of the City of Chelsea and other duly authorized agents of the Licensing Commission.
- b) Any person who hinders or delays a police officer or other authorized agent of the Commission in the performance of the agent's duties, or who refuses to admit, or locks out, any such agent from any place which such agent is authorized to inspect, or who refuses to give such agent such information as may be required for the proper enforcement of the General Laws, including Chapter 138 thereof, shall be subject to disciplinary action by the Licensing Commission and shall be punished by a fine or by imprisonment as set by State statute.
- c) Licensees shall maintain a current list of all their employees and shall have it available at all times for inspection upon request of an authorized agent of the Commission. Licensees who contract with entertainment entities to provide entertainers must maintain a current list of the names of such entertainers, who shall be held to the same rules as other employees at the premises.
- d) No device or electronic equipment shall be utilized by a licensee for the purpose of signaling employees that agents of the Commission are present.
- e) The Commission or its agents may, at any time, take samples for analysis from any beverages or alcohol kept on the premises licensed, pursuant to the General Laws, Chapter 138, and the vessel or vessels containing samples shall be sealed on the premises in the presence of the licensee or one of the employees and shall remain so sealed until presented to the state's Department of Public Health for analysis. Duplicate samples shall be left with the licensee.
- f) All complaints and reports shall continue in force until they have been reviewed and disposed of by the Commission.

#### **2.11. Entertainment at Premises Which Serve Food or Beverages to be Consumed on the Premises**

- a) No licensee may provide entertainment of any kind unless the licensee holds an entertainment license issued pursuant to the General Laws, Chapter 140, section 183A. Such license must be held in the same name, by the same owners, and with the same manager as the food or beverage license; provided, however, that in cases where entertainment on the premises is to be conducted by a person or entity who is an independent contractor at the premises, the food or beverage licensee may seek the approval of the Commission for an exemption from this rule based upon a written contract with the independent contractor which gives control of the premises to the food or beverages licensee while allowing the independent contractor to book and/or to produce the entertainment. The food or beverage licensee shall be responsible for the actions of such independent contractor on the premises in addition to the responsibility held by the independent contractor pursuant to the entertainment license. The food or beverage licensee shall pay the independent contractor a fee according to the written contract, said fee to be commensurate with the market value of the services, and the independent contractor shall not be given any direct or indirect interest in the licensed premises other than the fee set out in the contract. Said fee shall not be based upon the number of patrons attending an entertainment event or sales by the licensee during such event. The food or beverage licensee shall provide in the contract for removing the independent contractor in the event that the entertainment is poorly managed or causes violations to occur at the licensed premises. Any food or beverage licensee who permits entertainment at the licensed premises pursuant to a license held by a person in violation of this rule will be subject to disciplinary action by the Commission.
- b) No entertainment at the licensed premises may be conducted in a manner such that the noise from the entertainment can be heard outside the boundaries of the licensed premises.
- c) No dancing by patrons is permitted except upon proper licensing pursuant to General Laws, Chapter 140, section 183A, and confined to a particular dance floor area which has been approved by the Commission and which is not inconsistent with the entertainment license requirements.
- d) No entertainment may take place at a licensed premises and no member of the public may be at the licensed premises except during the hours and days when the Commission has approved the premises to be open to the public, and then only in those areas approved for entertainment by the Commission. It shall be a violation of the food and beverage license if entertainment is conducted on the premises prior to the opening hour set by the Commission or subsequent to the closing hour set by the Commission for the exercise of the food or beverage license or during any period when the food or beverage license has been suspended.
- e) Licensees shall not permit any games to be played at the premises for money or for a prize of alcoholic beverages or for any other prize or prizes; provided, however, that games may be played for money at certain fundraising activities



which have been approved by the Commission and for which the licensee holds other appropriate licenses.

#### **2.12. Standards of Conduct on the Premises**

- a) Premises licensed for the consumption of food or beverages at the premises are public places where members of the public are invited and expect to be treated in the same manner as in other public places with regard to the provision of a decent and non-offensive environment. Food and beverage licensees are not permitted to have, create, produce, or tolerate any environment at the premises which is intended to hold any person or any group of persons up to ridicule or derision such that said person or said group of persons would not feel comfortable at the premises.
- b) It is forbidden to permit any employee or person in or on the licensed premises to promise, offer, suggest, or accept sexual acts or favors in exchange for money or for the purchase of any alcoholic beverages or other commodities.
- c) It is forbidden to encourage or permit any person in or on the licensed premises to touch, caress, or fondle the breasts, buttocks or genitals of any other person.
- d) It is forbidden to employ or permit any persons in or on the licensed premises while such person is unclothed or in such attire as to expose to view any portion of areola of the female breast or any portion of the pubic hair, cleft of the buttocks, or genitals.
- e) It is forbidden to employ or permit any person to wear or use any device or covering exposed to view, which stimulates the breasts, buttocks, pubic hair, or genitals or any portions thereof.
- f) It is forbidden to employ or permit any person in or on the licensed premises to perform any act or acts to simulate any act or acts of: sexual intercourse, masturbation, sodomy, flagellation, or any sexual acts prohibited by law; or touching, caressing, or fondling of breasts, buttocks, or genitals of another or himself or herself.
- g) No employee and/or entertainer shall solicit, induce, or request a patron to purchase any alcoholic or non-alcoholic beverage or any food for them or for any other person. No entertainer shall mingle with, or circulate among, patrons of the licensed premises. Nothing herein shall prohibit the above activity in connection with any contact which such person may have with a patron to whom they are related by blood or marriage.

#### **2.13. Illegal Activity on the Licensed Premises**

- a) Licensees shall make all reasonable and diligent efforts to ensure that illegal activities do not occur at the licensed premises. Such efforts may include:

- (1) Frequent monitoring of restrooms and other non-public areas of the premises for signs of drug activity or other illegalities;
  - (2) Paying attention to activities on the premises of known drug users or drug dealers or prostitutes or others who are known to have been convicted of crimes which may have been conducted at a licensed premises;
  - (3) Diligence in observing and taking action against persons who make unusually frequent trips in and out of the premises or in and out of restrooms and/or persons who are visited at the premises by an unusually large number of people or by one or more people at frequent intervals and/or persons who appear to be making exchanges of small packages (matchbooks, cigarette packs, bags, paper squares, plastic or foil containers, or other containers) or payments of money;
  - (4) Monitoring of activities of persons who talk about weapons or who appear to be hiding a weapon;
  - (5) Calling for police assistance, as necessary, to protect patrons against injury or to evict unruly patrons or to uncover unlawful conduct or to give medical assistance and providing police with requested information;
  - (6) Hiring security personnel to deal with chronic unlawful activity at the premises such as prostitution or gambling or larceny from patrons or assaults and batteries or other problems associated with the premises.
- b) There shall be no disorder, indecency, prostitution, illegal gambling, illegal drug use or sales or possession thereof, or other illegal activity on the licensed premises or any premises connected therewith by an interior communication.

#### **2.14. Injuries to Persons at the Premises**

Licensees shall instruct their employees and security personnel that they are not to make bodily contact with a patron except to protect other patrons or themselves from being subjected to body blows from an unruly patron. In all other circumstances employees and security personnel are to call the police to have patrons removed from the premises when such patrons are being disruptive and they are unable to convince the patron to leave the premises voluntarily.

#### **2.15. Other Causes for Revocation, Suspension, and/or Modification**

Any license issued pursuant to General Laws Chapter 138 and Chapter 140 for the service of food or beverages to the public may be modified, suspended, or revoked for any of the following causes:

- a) Violation by the licensee of any provision of the laws of the United States, the laws of the Commonwealth or the relevant Ordinances of the City of Chelsea or of any rule or regulation of any City of Chelsea agency or of

the Alcoholic Beverages Control Commission or of any Rule or Regulation of the Licensing Commission;

- b) Fraud, misrepresentation, concealment or suppression of facts by the licensee in connection with an application for a license or permit or for the renewal thereof or in connection with an application for the removal of the licensed premises or the alteration of the premises or in connection with any other petition affecting the rights of the licensee or in any conference, interview or hearing held by the Commission in connection with such petition, request, or application affecting the rights of the licensee;
- c) Failure to operate the premises covered by the license;
- d) Failure or refusal of the licensee to furnish or disclose any information required by any provision of the General Laws or by any rule or regulation of the Alcoholic Beverages Control Commission or any Rule or Regulation of the Licensing Commission;
- e) Conviction of the licensee of any crime which is a felony under the laws of the Commonwealth of Massachusetts or the United States of America.
- f) Licensees may not give or offer any money or anything of value or pay for or reimburse or forgive the debt for services provided to any employee or agent of the Commission either as a gratuity or for any service.
- g) Licensees may not fail to comply with any condition, stipulation or agreement upon which any license was issued or renewed by the Commission or upon which any application or petition relating to the premises was granted by the Commission. It shall be the duty of the licensee to ensure that all appropriate personnel at the licensed premises are familiar with all the Rules and Regulations of the Commission and with any conditions of the license.
- h) A license may be suspended, modified or revoked for the refusal by any licensee and, if a corporation, by a manager, officer, or director thereof to appear and to testify at an inquiry or hearing held by the Commission with respect to any application or matter bearing upon the conduct of the licensed business or bearing upon the character and fitness of such person to continue to hold a license.
- i) Licensees must properly serve suspension and modification orders.

## **2.16. Service of Suspension Orders**

- a) When the Commission suspends the license or licenses of any licensee, it shall provide the licensee with an order of suspension for public display that must contain the words, "Closed per order of the Licensing Commission of the City of Chelsea." Such order shall be publicly displayed by the licensee in the following

manner: If there is a door opening from the street into the licensed premises and a window facing the street upon which such door opens, such order shall be displayed in such window so that it may readily be seen from the street. If the licensed premises are otherwise located, such order shall be affixed to the door of the entrance to the premises and displayed in such a way that it may be readily seen from the street.

- b) Suspension orders of the Commission, as above, shall remain affixed throughout the entire period of suspension. The removal, covering, defacement, or obliteration of the order of suspension or the failure to maintain the order of suspension in the manner and place required prior to the expiration of the suspension period shall be deemed the act of the licensee and shall be cause for further suspension, modification or revocation of the license.
- c) Suspension periods may not be used as a time to do renovations at the licensed premises unless such renovations have been approved by the Commission.
- d) No members of the public may be on the licensed premises at any time during a suspension period and the licensed business may not be open for any reason, without approval of the Licensing Commission. The licensee may be on the premises only if it is in the process of actively cleaning up or doing office work at the premises. No persons other than the licensee and its employees may be on the premises during the suspension period for any reason.

#### **2.17. Permission to Close Premises Required**

- a) Licenses are granted to serve the public need and to that end licensees are expected to operate the license for substantially all hours on all days when the premises are permitted to be open under the terms of the license. In the case of alcoholic beverage licenses, the numbers of which are limited according to statute, no alcoholic beverages licensee may close its place of business for any reason other than the following:
  - (1) Upon request to the Commission for closing in order to do renovations after approval by the Commission for such renovations and for a reasonable time of closing in order to perform the renovations;
  - (2) For all holidays and religious days;
  - (3) A closing of one or more days each week upon approval of the Commission, pursuant to licensee's request and a showing by licensee that it does not have adequate business upon such days;
  - (4) A closing due to an act of God or an illness or some other business problem for which request has been made to the Commission and approval granted.

- b) Alcoholic beverages licensees may not close the licensed business on any days for which their entertainment license has been suspended unless they make such request to the Commission based upon the licensee's allegation that its primary business comes from the entertainment at the premises and that there would be little or no business or public reason to keep the premises open during the days when entertainment cannot be provided at the premises. Such requests will be granted by the Commission where the entertainment is the primary attraction for the public at the licensed premises. Licensees not requesting to close the premises during the days on which their entertainment licenses are suspended may remain open to the public for the sale and service of alcoholic beverages and food but may not conduct any type of entertainment on the premises during the suspension period.

## **SECTION 3**

### **SPECIAL ADDITIONAL RULES FOR COMMON VICTUALLERS**

#### **3.01. Kitchen Facilities**

All common victualler licensees must have kitchen facilities for storing foods required to be kept at cold temperatures and adequate facilities for preparing, cooking, serving and storing foods.

#### **3.02. Alcoholic Beverages**

Patrons are not permitted to bring alcoholic beverages on the premises for their own consumption. Licensees are not permitted to keep alcoholic beverages on the premises except for a reasonably small quantity that is used in the preparation of certain specialty foods. The Commission will, in its discretion, determine what is reasonable for this purpose and whether it is customary in the preparation of such specialty foods.

#### **3.03. Food Service**

Some type of food must be available upon the request of a patron at a premises with a common victualler license during all operating hours; provided, however, that the full dining menu does not need to be available at all times but shall be available substantially all of the time.

#### **3.04. Applicable Rules**

Licensees under this section are subject to all applicable rules for licensees set out in Section 2, above, with the exception of those parts that refer to the sale of alcoholic beverages.

## SECTION 4

### **SPECIAL ADDITIONAL RULES FOR INNOLDERS**

#### **4.01. Provisions for Strangers and Travelers**

- a) Every innholder shall at all times be provided with suitable food for strangers and travelers. Every innholder shall also have upon its premises suitable rooms, with beds and bedding, for the lodging of guests.
- b) An innholder who upon request refuses to receive and to make suitable provision for a stranger or traveler shall be subject to disciplinary action by the Licensing Commission and shall be punished by a fine or by imprisonment as set by State statute.

#### **4.02. Immorality on the Premises**

Whoever being licensed as an innholder, or being in actual charge, management or control of the premises for which the license is issued, knowingly permits the premises under his or her control to be used for the purpose of immoral solicitation, immoral bargaining or immoral conduct, including prostitution, drugs or gambling, shall be subject to disciplinary action by the Licensing Commission and shall be punished by a fine or by imprisonment as set by State statute.

#### **4.03. Maintaining a Register**

Every innholder shall maintain a permanent register in which shall be recorded the name and residence of every person engaging or occupying a private room. Such register shall be retained by the holder of the license for a period of at least one year after the date of the last entry therein and shall be open to the inspection of the licensing authorities, their agents, and the police.

#### **4.04. Applicable Rules**

Licensees under this section are subject to all applicable general rules for licensees set out in Section 2 above, with the exception of those parts that refer to the sale of alcoholic beverages licenses, unless such innholder also holds such a license.

## **SECTION 5**

### **SPECIAL ADDITIONAL RULES FOR LODGING HOUSE LICENSES**

#### **5.01. Definition**

"Lodging house" shall mean a house where lodgings are let to four or more persons not within the second degree of kindred to the person conducting it and shall include fraternity houses and dormitories of educational institutions, but shall not include dormitories of charitable or philanthropic institutions or convalescent or nursing homes licensed under section 71 of Chapter 111 of the General Laws or rest homes so licensed or regulated by agencies of the Commonwealth; provided, however, that the Commission may grant dormitory licenses under a separate category within the lodging house license category.

#### **5.02. Cooking Facilities**

A lodging house where lodgings are let to more than five but less than twenty persons may furnish individual cooking facilities for the preparation, serving, eating, and storage of food; provided that no such facility shall be furnished in a room having an area less than one hundred fifty square feet. Such facilities shall, in a single room, consist of a gas or electric plate, a refrigerator and storage area for food. Any facilities furnished under this section shall comply with the Building Code.

#### **5.03. Immorality on the Premises**

Whoever being licensed as a lodging house keeper or being in actual charge, management or control of such lodging house, knowingly permits the property under his or her control to be used for the purpose of immoral solicitation, immoral bargaining or immoral conduct, including criminal activities such as prostitution, use and sale of drugs, possession of drugs, and gambling, shall be subject to disciplinary action by the Licensing Commission and shall be punished by a fine or by imprisonment as set by State statute.

#### **5.04. Maintaining a Register**

Every lodging house keeper shall keep or cause to be kept, in permanent form, a register in which shall be recorded the true name and residence of every person engaging or occupying a private room averaging less than four hundred square feet of floor area. Such register shall be kept for a period of one year after the last entry therein, and shall be open to the inspection of the licensing authorities, their agents and the police.

#### **5.05. Rooms to be Let to Persons Only**



Whenever the Commission issues a lodging house license, the licensee may let individual rooms to individual persons only and may not contract out rooms to any entity or institution which intends to choose lodgers for the rooms. Such conduct will be held to constitute leasing out of the license and is prohibited. Violation of this rule may result in suspension or revocation of the license.

**5.06. Lodging House License Not to Coexist with Dormitory License**

A lodging house license may not coexist with or include a dormitory operation in which one or more rooms are assigned to students from a particular educational institution and may not exist in the same building with another lodging house license except upon special permission of the Commission.

**5.07. Applicable Rules**

Licensees under this section are subject to all applicable general rules for licensees set out in Section 2, above, with the exception of those parts that refer to the sale of alcoholic beverages.

## **SECTION 6**

### **SPECIAL ADDITIONAL RULES FOR PACKAGE STORE LICENSEES**

#### **6.01. Records of Deliveries**

Package store licensees are required to keep a written record of the name and address of every person to whom a delivery is made outside the premises. Additionally, the record must include the information as to the amount of alcoholic beverages that were delivered, the date and time of delivery. If such signature is illegible the licensee is required to have the patron print his or her name under said signature. Such records must be maintained for a period of not less than one year from the last entry therein and must be available to the Commission and its agents for inspection at any time in a form suitable for easy inspection.

#### **6.02. Applicable Rules**

Licensees under this section are subject to all applicable general rules for licensees set out in Section 2 above, with the exception of those parts that refer to sales of alcoholic beverages for consumption on the premises and those parts that refer to sales of food or to entertainment on the premises. Package store licensees who also hold common victualler licenses are subject to additional special rules for common victualler licenses in Section 3 above.

#### **6.03. Off-Premises Sales**

Alcoholic beverages shall be transported or delivered for sale only upon orders actually received at the licensed business prior to the shipment thereof. Violation of this section shall be punished by a fine not exceeding two hundred dollars or by imprisonment for not more than six months or both (General Laws, Chapter 138, section 32).

## **SECTION 7**

### **SPECIAL ADDITIONAL RULES FOR BILLIARD TABLES, POOL TABLES AND BOWLING ALLEYS**

#### **7.01. Issuance of Licenses**

The Commission may issue licenses to persons to keep a billiard, pool or a bowling alley for hire, gain or reward, to be used for amusement only and not for the purpose of gaming for money or for property.

#### **7.02. Penalties**

Whoever without such a license keeps or suffers to be kept in a house, building, yard or dependency thereof, actually occupied or owned by him or her, a table for the purpose of playing at billiards, pool or a bowling alley for hire, gain or reward, or whoever for hire, gain or reward, suffers any person to resort thereto for such purpose shall forfeit not more than one hundred dollars.

#### **7.03. Minors**

The keeper of a billiard, pool room or table who admits a minor under the age of eighteen thereto without the written consent of his parent or guardian or the keeper of a bowling alley in which alcoholic beverages are sold who admits thereto a minor under the age of sixteen without such consent shall forfeit ten dollars for the first and twenty dollars for each subsequent offense and shall be subject to disciplinary proceedings against the licensee.

#### **7.04. Applicable Rules**

Licensees under this section are subject to all applicable general rules for licensees set out in Section 2 above, with the exception of those parts pertaining to the sale of alcoholic beverages. If the licensee under this section also has an alcoholic beverages license, he or she is subject to all of the general rules set out for licensees in Section 2 above. If the licensee under this section also has a common victualler or a nonintoxicating beverage or a club license or other such license, then the licensee is also subject to all rules under the corresponding section of these rules.

## **SECTION 8**

### **SPECIAL ADDITIONAL RULES FOR DISPENSING FOOD OR BEVERAGES AT CLUBS WHICH ARE NOT LICENSED FOR THE SALE OF ALCOHOLIC BEVERAGES**

#### **8.01. Issuance of Licenses**

- a) The Commission may grant a license to any club, society, association or other organization, whether incorporated or unincorporated, authorizing it to dispense food and beverages to be consumed on its premises, to its stockholders or members and their guests, but to no others; provided, however, that the Commission is satisfied that such organization is a proper one to which to grant such a license. (See General Laws, Chapter 140, section 21E.)
- b) If such organization is unincorporated, the names of all the officers and members shall be submitted with the application for the license and shall be kept available for public inspection.

#### **8.02. Exemptions**

The provisions of this section shall not apply to literary, benevolent, charitable, scientific or religious corporation or religious organizations or associations whose real or personal property is exempt from taxation, nor to any club so long as it is licensed under section 12 of the General Laws, Chapter 138 to sell alcoholic beverages, nor to any recognized veteran's or fraternal organization.

#### **8.03. Penalties**

Any officer or employee of any such organization who dispenses or causes to be dispensed any food or beverage on its premises, unless such organization is then licensed as aforesaid, shall be punished by a fine of not more than one hundred dollars for the first or second offense and by a fine and imprisonment for each subsequent offense as set out in General Laws, Chapter 140, section 21F.

#### **8.04. Improper Use of License**

If such organization at any time exercises in an improper manner the authority conferred upon it by such license, the Commission after notice to the licensee and reasonable opportunity to be heard, may upon satisfactory proof thereof suspend, revoke or modify the license.

#### **8.05. Conviction of Officer**

If any officer or employee of such organization which is incorporated is convicted of any offense under this section, the police commissioner shall immediately give notice to the

state secretary, who, upon receipt thereof, shall declare the charter of such organization void, and shall publish a notice that such incorporation is void and of no further effect.

**8.06. Applicable Rules**

All licensees under this section are subject to all applicable general rules for licensees set out in Section 2 above, with the exception of those parts which refer to sales of alcoholic beverages.

## **SECTION 9**

### **SPECIAL ADDITIONAL RULES FOR AUTOMATIC AMUSEMENT DEVICES**

#### **9.01. Issuance of Licenses**

- a) The Commission may issue licenses to persons to keep an automatic amusement device or devices for hire, gain or reward, to be used for amusement purposes only and not for the purpose of gaming for money or property.
- b) Licenses granted under this section, unless sooner revoked, expire on December thirty-first of each year.
- c) The annual fee for a license under this section for any automatic amusement device, or for renewal of such licenses, shall be one hundred dollars.

#### **9.02. Definition**

The term "automatic amusement device" as used in this section shall be construed in strict accordance with the General Laws, Chapter 140, section 177A(2).

#### **9.03. Penalties**

Whosoever without such a license keeps or suffers to be kept in a house, building, yard or dependency thereof, actually owned or occupied by him or her, an automatic amusement device for hire, gain or reward, or whosoever for hire, gain or reward suffers any person to resort thereto for such purpose shall be subject to disciplinary action by the Licensing Commission and shall be punished by a fine as set by State statute.

#### **9.04. Applicable Rules**

Licensees under this section are subject to all applicable general rules for licensees as set out in Section 2, with the exception of those parts pertaining to the sale of alcoholic beverages. If the licensee under this section also has an alcoholic beverages license he or she is subject to all of the general rules set out for licensees in Section 2 above. If the licensee under this section also has a common victualler or other such licenses, then the licensee is also subject to all rules under the corresponding section of these rules.

## **SECTION 10**

### **SPECIAL ADDITIONAL RULES FOR THE SALE OF ALCOHOLIC BEVERAGES BY REGISTERED PHARMACISTS**

#### **10.01. Issuance of License**

A registered pharmacist who holds a certificate of fitness under section 30 of General Laws, Chapter 138 may use alcohol for the manufacture of United States pharmacopoeia or national formulary preparations and all medicinal preparations unfit for beverage purposes, and may sell alcohol and upon the prescription of a registered physician, wines, malt beverages, and other alcoholic beverages. A registered pharmacist may be licensed by the Licensing Commission to sell alcoholic beverages for medicinal, mechanical or chemical purposes without a physician's prescription. (General Laws, Chapter 138, sections 29, 30A).

#### **10.02. Sundays and Legal Holidays**

No licensee under this section shall sell any alcoholic beverages or alcohol without a physician's prescription on Sundays or legal holidays.

#### **10.03. Certification of Purchaser**

Licensees under this section shall not sell alcoholic beverages of any kind for medicinal, mechanical or chemical purposes except upon the certificate of the purchaser, which shall state the use for which it is wanted and which shall be immediately cancelled at the time of sale in such manner as to show the date of cancellation.

#### **10.04. Register to be Kept**

Licensees under this section shall maintain a book in which each licensee shall enter, at the time of every such sale, the date thereof, the name of the purchaser, the kind, quantity and the price of said beverage, the purpose for which it is sold, and the residence by street and number, if any, of the purchaser. If such sale is made upon the prescription of a physician, the book shall also contain the name of the physician and shall state the use for which said beverage is prescribed and the quantity to be used for such purpose and the prescription shall be cancelled in the manner provided in the preceding section with reference to certificates. Said book shall be maintained in the format prescribed in General Laws, Chapter 138, section 30E and said certificate shall be in the form prescribed in the same section.

#### **10.05. Applicable Rules**

Licensees under this section are subject to all applicable general rules for licensees set out in Section 2 above, with the exception of those parts that refer to sales of alcoholic beverages or food for consumption on the premises.

## **SECTION 11**

### **SPECIAL ADDITIONAL RULES FOR PRIVATE CLUBS LICENSED TO SELL ALCOHOLIC BEVERAGES**

#### **11.01. Definitions**

"Guest" shall mean any person who is not made a member of the club for at least one year and has not paid an annual membership fee and is not recorded in the club's log of members is considered to be a "guest" for the purposes of the Licensing Commission's regulations, unless an exemption from the restriction has been granted by the Commission.

#### **11.02. Inspections**

Private clubs may be inspected by the police department and other agents of the Licensing Commission in the same manner and to the same extent as other food or beverage licensees pursuant to General Laws, Chapter 138, section 63.

#### **11.03. Lists of Members and Employees**

A current list of employees and members shall be available upon request of authorized agents of the Commission.

#### **11.04. Entrance to Private Clubs**

Persons who are not listed as club members shall not be permitted to enter the licensed premises, except when escorted into the club by a club member or when the club member has properly notified the club of his or her guest's arrival.

#### **11.05. Who May Be Served**

Private clubs licensed for the sale and service of alcoholic beverages may serve such beverages and may serve food to members and to guests of members and to no others.

#### **11.06. Fees and Surcharges**

Club members may be assessed an annual fee and may be assessed surcharges to be divided equally among the membership. Club members may not be charged a fee for entrance to the club on any particular occasion, unless written notice has been sent to each club member at least one week prior to the particular occasion, informing the membership that there will be an entrance charge for the particular occasion.

#### **11.07. Applicable Rules**

Licensees under this section are subject to all applicable general rules for licensees set out in Section 2 above.